

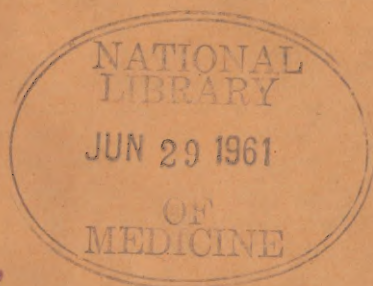
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AN ACT
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RELATING TO LUNATICS

AND TO THE

Custody and Estates of Lunatics.



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AN ACT

RELATING TO LUNATICS AND TO THE CUSTODY AND ESTATES OF LUNATICS.

(Passed the 18th day of April, A.D., 1872.)

Be it enacted by the Governor, Council and Assembly as follows :

1. Any lunatic being at large may be apprehended under warrant from two Justices of the Peace, and if his legal settlement shall be in any place within the County or District, he shall be secured within the same ; and if such settlement shall not be within the County or District, he shall be sent by the Justices by order under their hands, to the place of his last legal settlement, and shall be there secured under a warrant from two Justices of the Peace for the County or District to which he shall be so removed, and the charges of removing, maintaining and curing such person during his restraint, having been first proved on oath before two Justices, shall be paid out of the proceeds of the personal property, or the rents of the real estate of such person, if any he have over and above what will maintain his family ; and such property or rents may, for that purpose be seized and sold by the Overseers of the Poor of the place of such person's last legal settlement, under a warrant from two Justices ; and if such person has not any property or rents applicable therefor, then such expenses shall be borne by the inhabitants of the County or District within which such person shall have his last legal settlement.

2. When the relatives or friends of any insane person, or the Overseers of the Poor of the township of which he is an inhabitant, shall apply to the Supreme Court or a Judge thereof to have a guardian appointed for him, notice shall be given to such insane person if at large, and if he be under restraint, to those having charge of him, of the time and place appointed for hearing the case, not less than fourteen days before the time so appointed ; and if, after a full hearing it shall appear to the Court or Judge that the person in question is incapable of taking care of himself, such Court or Judge shall appoint a guardian of his person and estate with the powers and duties hereinafter specified. Every guardian

so appointed shall have the care and custody of the person of the ward and the management of his estate until legally discharged.

3. When a guardian shall be appointed for an insane person the Court or Judge shall make an allowance to be paid by the guardian, out of the estate of such insane person, for all reasonable expenses incurred by the ward in opposing the application.

4. Every guardian of an insane person shall pay all just debts due from the ward out of his personal estate if sufficient, and, if not, out of his real estate, upon obtaining a license for the sale thereof from the Supreme Court or any Judge thereof. He shall also settle all accounts of the ward, and shall sue for, recover and receive all debts due to him, or may compound for the same and give discharges to the debtors, and he shall appear for, and represent the insane person in all legal and equitable suits and proceedings.

5. The guardian shall also manage the estate frugally and without waste; and shall apply the profits thereof, as far as necessary, to such insane person's comfortable and suitable maintenance, and that of his family; and, if such profits be insufficient, the guardian may sell or mortgage the real estate, upon obtaining a license so to do, and shall apply the proceeds, so far as may be necessary, to the maintenance and support of such insane person and his family.

6. On a sale taking place under a license to sell the real estate of an insane person, the guardian shall execute in the name of such insane person the deed thereof, which shall convey such real estate to the purchaser, either absolutely or by way of mortgage, as therein specified, in the same way as if executed by such insane person himself when of sound mind.

7. When any guardian so appointed shall remove from the Province, or become insane, or otherwise incapable of discharging his trust, or shall be evidently unsuitable therefor, the Supreme Court or a Judge thereof, after notice to such guardian if resident in the Province. and to all others interested, may remove him; and every guardian may upon his own request be allowed to resign his trust, when it shall appear proper to the Court or a Judge to allow such resignation; and, upon every such resignation or removal, and also upon the death of any guardian, the Court or a Judge may appoint another in his stead.

8. Every guardian shall give a Bond, with sureties, to Her Majesty with the following conditions:

First—To make a true inventory of all the real estate and all the goods, chattels, rights and credits of the insane person, that shall come to his knowledge, and return the same into the Supreme Court, at such time as the Judge shall order.

Secondly—To dispose of and manage all such estate and effects according to law and for the best interests of the insane person, and faithfully to discharge his trust in relation thereto.

Thirdly—To render an account on oath of the property in his hands including the proceeds of all real estate sold by him, and of the management and disposition of all such property, within one year after his appointment, and at such other times as the Court or a Judge shall direct ; and

Fourthly—At the expiration of his trust, to settle his accounts with the Court or a Judge, or with the insane person in case of his restoration to reason or in case of his death with his legal representatives ; and to pay over and deliver all the estate and effects remaining in his hands or due from him on such settlement, to the person lawfully entitled thereto.

9. The reasonable expenses of the apprehension and removal of any insane person, having been verified on oath before the Custos or any two Justices of the Peace, either before or after such removal, and by them allowed, shall upon their order be paid, by the Treasurer of the County or District out of the County or District funds, to the person appointed to apprehend and remove such insane person ; and such expenses shall afterwards be levied, by warrant of distress to be signed by two Justices of the Peace, on any goods or chattels of such insane person, or may be realized out of the real estate of the insane person or the rents thereof as provided in this Act ; and for want of such property shall be a charge against the County or District in which such insane person shall have had his last legal settlement, as hereinafter provided.

10. The better to prevent crime being committed by insane persons, if any person shall be discovered and apprehended under circumstances denoting a derangement of mind and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, it shall be lawful for any two Justices of the Peace of the County or District, before whom such person may be brought, to call to their assistance any legally qualified medical practitioner ; and if upon order and examination of such person so apprehended, or from other proof, such Justices shall be satisfied that such person is insane, or a dangerous idiot, it shall be lawful for them, by warrant under their hands and seals, to commit such person to the gaol of the County or District, there to be kept in strict custody until such person shall be discharged by the order of two Justices of the Peace, one of whom shall be one of the Justices who shall have signed such warrant, or by a Judge of the Supreme Court, or until such person shall be removed to a proper Lunatic Asylum, or to the custody of guardians appointed under this Act.

11. Any two Justices may inquire into and ascertain, by the

best legal evidence that can be procured under the circumstances of the personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person, or of any other person tried and acquitted on the ground of insanity, or of any person found insane under any provisions of this Act ; and it shall be lawful for such two Justices to make an order, under their hands and seals, upon the Overseers of the Poor of the township or place where they adjudge him to be legally settled, to pay all reasonable charges of examining such person and conveying him to such County or District gaol, and to pay such weekly sum for his maintenance in such place of custody as such two Justices, or any two Justices shall by writing under their hands from time to time direct ; and, where such place of settlement cannot be ascertained, such order shall be made on the Treasurer of the County or District where such person shall have been in custody or apprehended : Provided always that nothing herein contained shall be construed to extend to restrain or prevent any relative, guardian or friend from taking such insane person or dangerous idiot under his own care and protection, if he shall enter into a sufficient recognizance for the peaceable behavior or safe custody of such insane person or dangerous idiot, before two Justices of the Peace, or the Court of Sessions, or a Judge of the Supreme Court : and provided also that the Overseers of the Poor of the township or place in which the Justices shall adjudge any insane person or dangerous idiot to be settled, may appeal against any such order to the next General or Special Sessions to be held for the County or District where such order shall be made, in like manner and under the like regulations and restrictions as against any order of removal, giving reasonable notice thereof to the Clerk of the Peace of the County or District upon whose rates the burden of maintaining such insane person or dangerous idiot might fail if such order should be invalid ; and such Clerk of the Peace shall be respondent in such appeal, which appeal the Justices of the Peace assembled at such General or Special Sessions are hereby authorized and empowered to hear and determine in the same manner as appeals against orders of removal of paupers are now heard and determined.

12. All charges herein mentioned that may be incurred by any Overseers of the Poor for any township or place, or by any County or District, under this Act, having been first proved on oath before two Justices, shall be repaid to such Overseers or to the Treasurer of the County or District respectively, as the same may have been incurred, out of the proceeds of the personal property or the rents of the real estate, or, if necessary, the real estate itself of such insane person or dangerous idiot, if any he have over and above what will maintain his family, which may for that purpose be seized and sold by such Overseers or County

or District Treasurer, under a warrant from two Justices ; and, for want of such property, such expenses shall be paid by the County or District in which such insane person or dangerous idiot shall have had his last legal settlement ; and the same shall be a County or District charge, to be assessed, levied and collected in the same manner as County rates.

13. Any person shall be deemed a legally qualified medical practitioner for the purposes of this Act, who would not be disqualified by law from recovering a fee or reward for his professional services.

HOSPITAL FOR THE INSANE.

14. The title of the above Institution shall be the " Nova Scotia Hospital for the Insane," and its object shall be the most humane and enlightened curative treatment of the insane of this Province.

15. The financial and general management of the Hospital shall be vested in the Commissioner of Public Works and Mines. The following persons shall be *ex officio* visitors of the Hospital, that is to say, the Lieutenant Governor, the Chief Justice, the Provincial Secretary, the President of the Legislative Council, the Speaker of the House of Assembly, the Committee of the House of Assembly on Humane Institutions and the heads or authorized representatives of all the Christian churches in the Province. The Commissioner of Public Works and Mines shall make all needful by-laws for the government of the Hospital, not inconsistent with the laws of the Province ; but, before such by-laws shall have effect, they shall be submitted to and approved of by the Governor in Council.

16. The Governor in Council shall appoint a Medical Superintendent, who shall be a well educated physician, and shall, with his family, reside on the premises, and devote his whole time to the welfare of the Institution, and whose salary shall be two thousand dollars a year, with fuel, gas and lodgings.

17. The Governor in Council shall also appoint a Medical Assistant, who shall be a well educated physician, and shall, with his family reside on the premises, and devote his whole time to the welfare of the Institution, performing his duties under the direction of the Medical Superintendent, and who shall receive a salary of twelve hundred dollars a year, with fuel, gas and lodgings.

18. The Governor in Council shall also appoint three persons as a Board of Commissioners, who shall have and exercise a general supervision over the Nova Scotia Hospital for the Insane, and who shall be paid two hundred dollars a year, each, for their services ; and they shall meet quarterly at the Hospital, and as often there and elsewhere at other times, as business or circumstances may require. One or

more of them shall visit the Hospital at least once a week. They shall see that the Acts of the Legislature and the by-laws of the Institution are faithfully adhered to and carried out; shall inspect the books and records of the Institution; view the wards and premises appropriated for the use of the patients; as far as practicable examine their food, and see that the contracts in reference thereto are duly performed; and shall also make inquiry relative to the health, treatment and general condition of the inmates; and they shall make entries as to the result of their visitations in a book to be kept at the Hospital for that purpose.

19. Whenever there are vacancies in the Hospital, the Commissioner of Public Works and Mines shall admit patients for whom admission is sought; with power to refuse cases that are not suicidal, or dangerous through violence to others, and that are from long standing not likely to be benefitted by treatment in the Hospital, and also epileptic or idiotic cases.

20. In every case where admission is sought for a patient, a statement in writing in the form of Schedule A shall be filled up and forwarded to the Medical Superintendent for examination; and his answer and approval shall be received before the patient is forwarded. No person shall be received into the Hospital for the Insane as a patient, without a certificate as in Schedule B, from two qualified medical practitioners in actual practice in the Province, of whom the one shall not be the son, brother, partner or assistant of the other; the examination therefor having been made not more than thirty days before admission.

21. In case of private paying patients, a bond shall be given to the Commissioner of Public Works and Mines with sufficient sureties, for payment of expenses, and a payment of one quarter's board shall be made in advance. Such bond may be sued on as often as shall be necessary, and recovery had, agreeably to proceedings in summary suits in the Supreme Court.

22. In case of the committal of an insane person to the Hospital for the Insane, the warrant therefor shall be in the form in Schedule C, and shall be issued by the Sheriff or two Justices of the Peace of the County or District in which the insane person shall be found; and such insane person shall be chargeable to the County or District from which he shall have been sent to the Hospital under such warrant, unless it shall be shewn to the satisfaction of the Commissioner of Public Works and Mines that such insane person is legally chargeable as a pauper to some other County or District, or has no legal settlement in the Province, or is chargeable to a guardian or other person.

23. The Commissioner of Public Works and Mines shall have power to investigate and determine any disputes that may

arise as to the County or District chargeable for the maintenance of a patient in such Hospital; and before the Commissioner shall decide in the matter he shall give reasonable notice to the Counties or Districts interested, through their Clerks of the Peace, of the time and place of such investigation; and at such time and place shall hear the evidence and allegations that shall be adduced respecting the matters in dispute, and decide accordingly. Such decision shall be final and binding in law upon the Counties, Districts and parties interested.

24. Whenever any person shall be so deranged in his intellect, that he cannot be permitted to go at large without danger or is suffering unnecessary duress or hardship, it shall be the duty of the Sheriff or any two Justices of the Peace of the County or District in which such insane person may be found, on being applied to for that purpose, to investigate the case, and summon to their assistance any one or more medical practitioners duly qualified and practising within the Province; and if such insanity be proved and certified by such medical practitioner or practitioners as in Schedule B, the Sheriff or Justices shall issue a warrant as in Schedule C, directed to any Constable of the County or District, who shall apprehend such insane person and convey him to the Nova Scotia Hospital for the Insane; and when such insane person is found to have had his last legal settlement in any other County, District or place, and if on investigation the Sheriff or Justices consider and determine that to send such insane person to his place of legal settlement, as provided in the first section of this Act, would be dangerous or prejudicial to such insane person's life or health, such insane person may be sent directly to the Hospital for the Insane, and the proceedings to recover the expenses incurred therefor shall be as provided for in such first section.

25. In case such person shall have been certified to be insane by only one medical practitioner, before his apprehension, he shall be again examined and certified as in Schedule B by two duly qualified practitioners, to be appointed by the Commissioner of Public Works and Mines, before he shall be admitted into the Hospital.

26. The expenses of all pauper lunatics, now or hereafter confined in the Hospital for the Insane shall be chargeable on the respective counties or districts, in which they shall have obtained legal settlements; and such expenses shall in each case be a county or district charge, to be assessed, levied and collected in the same manner as county rates; and in case the pauper lunatic shall not have obtained a legal settlement within the Province, the expenses shall be paid out of the Provincial Treasury.

27. In case the Grand Jury and Sessions of any County or District which shall be liable for the expenses of lunatics con-

fined in the Hospital shall refuse or neglect or assess such County or District therefor, the Supreme Court or a Judge thereof, at any term in the County so liable, shall upon application by the Attorney General or a Barrister of such Court by him authorized, amerce such County or District for the amount due, which with the costs and expenses attending such amercement, shall be assessed, levied and collected under the order of the Supreme Court or a Judge thereof, by the same persons whose duty it shall be to assess, levy and collect the County or District rates, and in the same manner as amercements on Counties for other purposes are now by law made; and the same when collected shall be paid into the Provincial Treasury.

28. If the guardian or other party to whom the expense of any patient who shall be in the Hospital is chargeable shall neglect, or upon demand made shall refuse to pay to the Commissioner of Public Works and Mines the expense of the care, maintenance and removal of such patient, and also, in the event of death, the funeral expenses of such patient such Commissioner is hereby authorized and empowered to collect the same by suit in his own name as ordinary debts; and on the trial of such cause a certified account from the Commissioner of Public Works and Mines shall be sufficient proof of the amount of such charges and expenses.

29. The Commissioner of Public Works and Mines, in the case of patients now in the Hospital for the Insane, or on whose behalf admissions are sought, and where, in his judgment, there are circumstances justifying a departure from the ordinary rates, may make special agreements for the amount and payment of board; and where a patient, from violence or otherwise, requires a special or extra attendant, such extra attendance shall be charged and paid for in the same manner as the ordinary charges.

30. When the funds or property of a private paying patient in the Nova Scotia Hospital for the Insane, above what will maintain his family, which may for that purpose be seized and sold, shall have been exhausted, it shall be the duty of the Custos and Clerk of the Peace of the County or District in which such patient has a legal settlement, on application made by the guardian or friends of such patient therefor, to investigate the case; and if it is found that the patient is in such indigent circumstances such Custos and Clerk of the Peace shall order the expenses to be made a charge on the County or District; and such order shall be forwarded to the Commissioner of Public Works and Mines, who, on the receipt of the same shall, from that date, charge the expenses of such patient to such County or District; and shall, on the payment of all arrearages due, cancel the bond given on behalf of such patient; or if, on such investigation,

it is found that a part of the expense can be borne by the patient, an agreement may be made whereby such part shall be paid to the Treasurer of such County or District.

31. Whenever the real and personal estate of any lunatic or insane person, not being a pauper, or of the husband, father or mother of such lunatic or insane person is not more than sufficient to maintain the family of any such person, the expenses of the maintenance of the insane person in the Hospital may be defrayed in whole or in part, from the funds donated or to be donated for that purpose to the Hospital, as the Commissioner of Public Works and Mines may on investigation order and direct.

32. The Commissioner of Public Works and Mines, upon the Medical Superintendent's certificate of recovery, amendment, harmlessness or unsuitableness, may discharge any patient, except those under criminal charges, and the parties liable for the maintenance of such patient shall be duly notified of such discharge and the terms thereof: Provided that patients under criminal charges shall be discharged only as by law directed. Patients who have been for more than six months under care in the Hospital, and have so far recovered as to be capable of being taken care of in a private family, may be discharged on trial in care of their relatives or friends, or, failing these, may be boarded out under such conditions and at such rate of payment as the Commissioner of Public Works and Mines shall direct, which rate of payment shall not exceed the charge made for the maintenance in the Hospital of such patients. Such patients so discharged or so boarded out shall be under the supervision and inspection of the Medical Superintendent, on whose report any such patient shall, if necessary, be re-admitted to the Hospital, or if recovered be finally discharged.

33. Resident officers and other employees of the Hospital, while actually engaged as such, shall be exempt from service as jurors and as county, district and township officers, and from the performance of statute labor on the roads.

34. In case the Commissioner of Public Works and Mines shall hereafter require any further lands for roads or other purposes connected with the Hospital, or to re-enter and re-open lands where pipes are laid, the proprietors or occupiers shall be entitled to such compensation as may be agreed upon with the Commissioner of Works and Mines, and in case of no agreement being entered into, either party may proceed in such case in the same manner as directed by Chapter 41 of the Acts of 1859, which shall be considered in force for that purpose.

35. The father, grandfather, mother, grandmother, children and grand children respectively of any pauper lunatic patient in the Nova Scotia Hospital for the Insane, being

of sufficient ability, shall contribute towards the maintenance of such patient while in the Hospital to such extent as their means will permit without injury to themselves or their families.

36. The Court of General Sessions of the Peace shall annually appoint not more than three committees of three Justices of the Peace in each County or District. Every such committee shall have power to inquire respecting the income and means of such father, grandfather, mother, grandmother, children or grandchildren, and to make an order on any of such parties requiring them to contribute towards the support and maintenance of such patient to such extent as the circumstances of the parties may warrant; and such committee shall summon the parties to be affected by such order to shew cause against the same and shall hear such parties, and thereupon may confirm, alter or modify such order. Any party aggrieved by such order may within ten days after a copy of the order shall have been served upon him, appeal to the Supreme Court or a Judge thereof in the County; but such appeal shall not be allowed unless the appellant shall have served a notice in writing of such appeal on the Clerk of the Peace within such ten days, and shall also within the same period have filed with such Clerk of the Peace an affidavit sworn to before a Justice of the Peace setting forth the grounds of such appeal, which affidavit and notice the Clerk of the Peace shall file with the Prothonotary in the County where the order shall have been made, on or before the first day of the next ensuing term of the Supreme Court in such County, and the Supreme Court shall hear and determine the matter in a summary manner and the decision of the Court shall be final.

37. The Clerk of the Peace under the authority of the General Sessions shall sue for the amount payable by virtue of such order in the same manner as if it were a private debt due himself, and the amount when recovered shall be paid into the County Treasury.

38. Every such committee shall have power to alter or modify any such order, or to discharge therefrom the party affected thereby, if such party shall become so reduced in circumstances as not to be able to comply with the requirements of such order without injury to himself or his family.

39. Every member of any such committee shall be entitled to receive the sum of one dollar and fifty cents for each day's necessary attendance on such committee, which sum shall be a county charge.

40. In the construction of this Act, the terms "Hospital" and "Hospital for the Insane" shall be understood to mean the "Nova Scotia Hospital for the Insane," the term "District" to mean a Sessional District where a County is divided for Sessional purposes, the term "County" to mean "County" or such "Sessional District," and "Supreme

Court " and " Court " to mean a Judge of the Supreme Court unless such interpretation of any of such terms is precluded by the context.

41. Chapter 152 of the Revised Statutes " Of Madmen and Vagrants, and of the Custody and Estates of Lunatics," and such other portions of the existing law as are inconsistent with this Act are repealed.

SCHEDULE A.

Statement to be forwarded to the Medical Superintendent when application is made for the reception of a patient.

1. Name of patient (in full),
2. Where born,
3. Son (or daughter) of,
4. Residence, County of
5. Age Last Birthday.
6. State as to Marriage,
7. Number and age of Children,
8. Occupation, (or that of Father or Husband.)
9. Natural Disposition,
10. Habits in Health,—as to Temperance, etc.
11. Education.
12. Religion,
13. Age at first attack,
14. Insanity, how first manifested,
15. Number and duration of Attacks,
16. Where under treatment, and when.
17. What relatives similarly affected.
18. Supposed cause, Remote.
19. “ “ Recent.
20. Duration of present Attack.
21. State as to sleep,
22. Appetite for food,
23. State of bodily Health,
24. Whether subject to Epilepsy,
25. Any faltering of Speech, or loss of power, and when.
26. Present Habits and Propensities,
27. What Delusions,
28. Whether Suicidal, (attempted or threatened) and how.
29. If dangerous to others, how,
30. Pecuniary Circumstances, (or to whom chargeable,)
31. Post-office address of nearest friend, and degree of relationship.
32. Other particulars.

SCHEDULE A.—(Continued.)

I Certify that to the best of my knowledge the above particulars are correctly stated: and I hereby request you to receive the above named ———— whom I last saw at ———— on the — day of ———, (being within one month from this date), as a person of unsound mind as a patient into the Nova Scotia Hospital for the Insane.

Name

Address

Degree of relationship (if any) or other circumstances of connection with the patient

N. B.—If any of the particulars in this Statement be not known, the fact to be so stated. No patient to be sent to Hospital until a reply shall have been received to this Statement.

SCHEDULE B.

Certificate.

I, the undersigned, _____, being _____ and in actual practice, hereby certify that I, on the _____ day of _____, 18 — at _____ in the County of _____ separately from any other Medical Practitioner, personally examined _____ of _____ and that the said _____ is a person of unsound mind and a proper person to be taken charge of, and detained under care and treatment; and that I have formed this opinion on the following grounds, viz. :

1. Facts indicating insanity observed by myself :*
2. Facts indicating insanity communicated to me by others :

Name

Place of Residence

Date.

N. B.—Two Certificates (dated within one month of the commitment) are required in every case. The second should not be signed by the father, brother, son, partner, or assistant of the Medical Practitioner who has signed the first certificate.

* The facts upon which (from personal observation) the opinion of insanity has been formed should always be specified.

SCHEDULE C.

County of

To any of the Constables of the said County,

Whereas it appears to us the undersigned Justices of the Peace, (or Sheriff as the case may be), in and for the said County of _____, from the certificates of _____ and _____ both Medical Gentlemen, in actual practice in said County, that _____ of _____, is of unsound mind, and is a proper person to be taken in charge, and detained under care and treatment.

These are therefore to command you, the said Constable, to take the said _____ and _____ safely convey to the Provincial Hospital for Insane, and there deliver _____ into the custody of the Medical Superintendent thereof, or other person in charge.

And we do hereby request you the said Superintendent of the aforesaid Hospital for Insane, to receive, and place under medical treatment, the said _____ until released in the usual manner.

Given under our hand and seal at _____ in the
County of _____ this _____ day of _____ A.D.

